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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,396	01/10/2002	Angela M. Petroskey	AMP 0101 PUS	4654
7590 07/27/2005			EXAMINER	
Artz & Artz, P.C. Ste. 250 28333 Telegraph Road Southfield, MI 48304			ARYANPOUR, MITRA	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,396

Applicant(s)

PETROSKEY, ANGELA M.

Examiner

Mitra Aryanpour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005 and 26 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11-17 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as filed does not provide support for the following limitation in the claims: In claim 1, the limitation "said top end portion for minimizing a rotational force on the user's wrist via said hand receiving portion" and "wherein said rotational force tends to cause rotation of the user's hand about the user's wrist"; and in claim 11, the limitation "...so as to decrease a rotational force applied to the user's wrist" and "wherein said rotational force tends to cause rotation of the user's hand about the user's wrist"

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-5, 8-12, 14, 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagner (5,564,122).

Regarding claim 1, Wagner discloses a training device comprising a front layer (front thin foam layer 12) to contact a ball, a rear layer (back or rear Styrofoam layer 10), and an insert portion (hard plastic layer 11) of relatively stiff material (it is made of hard plastic) disposed between the front and rear layer, and a hand-receiving portion (glove 5) fixedly mated to the bottom portion of the rear layer; wherein the top end portion of the rear layer is deformable for substantially bending rearward and absorbing the impact force of a ball. The preamble, *an athletic training device for blocking balls*, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

Regarding claim 3, Wagner shows the insert portion (11) to be made of plastic material (see column 2, lines 60 and 61).

Regarding claim 4, Wagner shows the front layer (12) and the rear layer (10) to be made of foam material (see column 2, lines 56-60).

Regarding claim 5, Wagner shows the rear layer to be made of two layers of Styrofoam and the front layer to be a thin foam layer (see column 2, lines 56-60; and best seen in figure 6).

Regarding claims 8 and 9, Wagner shows a covering surrounding the front, rear and insert portion, wherein the covering is made of fabric material (see column 2, lines 61-63; also figure 6).

Regarding claim 10, Wagner shows the hand-receiving portion is a glove (see column 2, lines 29-31).

Regarding claim 11, note the rejection for claims 1, 4, 5 and 10. It should be noted that the preamble, *A volleyball blocking pad*, does not limit the structure of the claimed device

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because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness. Additionally, Wagner shows a top portion (upper end 6) that is distal to a base portion (lower end 7), at least the top portion deforming (see figure 6 which shows the construction of the blocker; as it is clearly shown the angled upper area 3 comprises deformable material which absorb the impact of the puck or ball.

Regarding claim 12, note the rejection for claim 4.

Regarding claim 14, note the rejection for claim 5.

Regarding claim 17, note the rejection for claim 10.

Regarding claim 18, note the rejection for claim 11.

Regarding claims 19 and 21, Wagner shows the glove includes sleeves.

Regarding claim 20, Wagner shows the hand receiving portion has a front palm side that is fixedly attached to the bottom end portion (see figure 4).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 7, 13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (5,564,122).

Regarding claim 6, Wagner shows the insert portion (11) is made of hard plastic. As it is well known in the plastic art, all plastics provide in combination some degree of flexibility and

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rigidity. The degree of flexibility and rigidity vary depending on the shore hardness value of the plastic.

Regarding claim 7, Wagner is silent as to the means for securing front, rear and insert together. Various means are well known in the relevant art. Absent a showing of new or unobvious results it would have been obvious to use any well known means including glue for securing the various layers of Wagner's training device, the motivation being so that the layers remain securely in place upon impact.

Regarding claim 13, note the rejection for claim 6.

Regarding claim 15, note the rejection for claims 2 and 6.

Regarding claim 16, Wagner does not expressly indicate that the covering (13) is removable, but shows the cover to be closed at the upper end by lacing (14); as best seen in figure 6, the cover is removably attached.

ADDITIONALLY:

6. Claims 1, 4-8-14, 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Godleski (5,432,991).

Regarding claim 1, Godleski discloses a device comprising a front layer (foam portion 14 having top fabric portion 25), a rear layer (foam portion 15 having bottom fabric portion 26), and an insert portion (ductile frame 20) of relatively stiff material (it can be formed of aluminum, copper or ductile steel wire) disposed between the front and rear layer (see figure 3), and a hand-receiving portion (palm portion 30) fixedly mated to the bottom end portion of the rear layer (15) for utilizing a substantial length of the rear layer; the top end portion of the rear layer is deformable for substantially bending rearward and absorbing any impact force (see column 2, lines 59-68). It should be noted that the preamble, *an athletic training device for blocking balls*,

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does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

Regarding claim 4, Godleski shows the front (14) and rear (15) layer comprises a foam material (see column 2, lines 25-30).

Regarding claim 5, Godleski shows that the rear layer (combination of foam 15 and bottom fabric portion 26) has a greater thickness than the front layer (combination of foam 14 and top fabric portion 25).

Regarding claim 6, Godleski additionally shows the insert portion (ductile frame 20) has some flexibility but also having some degree of stiffness (see column 2, lines 46-59 and column 3, lines 42-45).

Regarding claim 7, Godleski shows that the various layers can be glued together (see column 3, lines 3-15).

Regarding claims 8 and 9, Godleski shows a covering (fabric covering 18) surrounding the various layers (see column 3, lines 29-41).

Regarding claim 10, Godleski shows said hand receiving portion is a glove (the broadest reasonable interpretation of glove would include the palm portion 30 for receiving a hand).

Regarding claim 11, note the rejection for claims 1, 4, 5 and 10. It should be noted that the preamble, A volleyball blocking pad, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness. Additionally, Godleski shows

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a top portion (upper most portion of glove 10) that is distal to a base portion (the lower most portion of glove 10), at least the top portion deforming (see column 2, lines 59-68).

Regarding claim 12, note the rejection for claim 4.

Regarding claim 13, Godleski shows the insert portion (20) is disposed between the front foam (14) and rear foam (15) portions.

Regarding claim 14, note the rejection for claim 5.

Regarding claim 16, Godleski shows a covering (fabric covering 18) surrounding the various layers (see column 3, lines 29-41). The various sections of the fabric can be sewn together to fit over the foam.

Regarding claim 17, note the rejection for claim 10.

Regarding claim 18, note the rejection for claim 11.

7. Claims 3, 15, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godleski (5,432,991).

Regarding claim 3, Godleski does not expressly disclose that the ductile frame (20) can be formed of a plastic material. The Examiner takes Official Notice that plastic is a ductile material and an obvious substitution for the ductile material of Godleski.

Regarding claim 15, note the rejection of claim 3.

Regarding claims 19 and 21, Godleski does not expressly disclose the hand receiving portion to have a plurality of sleeves. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to include a plurality of sleeves for the hand receiving portion, because Applicant has not disclosed that including a

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plurality of sleeves for the hand receiving portion, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the hand receiving portion taught by Godleski or the claimed hand receiving portion because both hand receiving portions perform the same function of receiving the user's hand. Therefore, it would have been an obvious matter of design choice to modify Godleski to obtain the invention as specified in claims 19 and 21.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA
21 July 2005



MITRA ARYANPOUR
PRIMARY EXAMINER